PRESS RELEASE

FOR IMMEDIATE RELEASE

Ombudsman's Report re Child Abuse

On August 10, 1983, the Minister of Community Services and Corrections for the Province of Manitoba wrote to the Ombudsman concerning The Children's Aid Society of Eastern Manitoba and a case of child abuse which, at that time, had been before the Courts for judgement and was still there for sentencing purposes. The case was one where a stepfather had been found guilty of sexually abusing his three stepchildren over a period of years. On October 28, 1983, the stepfather was sentenced to a twenty-year prison term, which he later appealed, with the Court of Appeal on February 6, 1984, upholding the trial judge's decision and sentence.

At the time this case was referred to the Ombudsman, it had already received notable coverage by the Manitoba news media and, as well, had been subject of discussion in the Legislative Assembly. One significant point of concern was the fact that during the trial there appeared to be conflicting testimony of one of the abused children and a child welfare worker as to the reporting of the abuse to the agency, with the child maintaining that he had, in fact, informed the child welfare worker of the abuse and the worker maintaining that he had no recollection of anything which would have caused him to have formally followed up the matter as one of sexual abuse. The trial judge had chosen to believe the testimony of the child and, in giving his decision, had commented on what he felt to be a lack of action on the part of the child welfare worker.

Concern was expressed in the Legislative Assembly to the Minister of Community Services and Corrections over the question of both the agency's

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and the worker's responsibility in this case, and ultimately the matter was referred by the Minister to the Ombudsman for review.

The Specific Request

The Ombudsman was specifically requested, by the Minister of Community Services and Corrections, to:

1. Undertake a review regarding the legal and professional practices of child abuse reporting in general; and
2. Undertake a review of the matters relating to this particular case.

The Ombudsman has completed an extensive investigation into the matters referred to him and has submitted a report to the Minister of Community Services and Corrections. Due to the confidential nature of the material dealt with, both from the point of view of The Ombudsman Act and The Child Welfare Act, the Ombudsman has chosen not to make his report public in its entirety. One of the primary considerations of the Ombudsman in making this decision, apart from the question of confidentiality, is the fact that the best interest of the children must always be paramount. The Ombudsman does appreciate, however, the public's right to know the outcome of his investigation into questions which have been raised in the public forum. Section 43 of The Ombudsman Act reads as follows:

"Publication of reports.

43 In the public interest, or in the interest of a person, department or agency of the government, the Ombudsman may publish reports relating generally to the exercise and performance of his functions and duties

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under this Act or to any particular case investigated by him, whether or not the matters to be dealt with in the report have been the subject of the report made to the assembly under this Act."

In accordance with Section 43 of The Ombudsman Act, the Ombudsman is releasing, in the public interest, edited exerpts from his report including his findings and recommendations.

FINDINGS RE THE PARTICULAR CHILD ABUSE CASE

1. That in March, 1981, The Children's Aid Society of Eastern Manitoba, through its Social Worker had sufficient information to warrant a formal investigation of possible sexual abuse of the children in this case.

At the outset of this case, concern had been raised publicly about the role of the social worker's supervisor. It is to be noted here that while the information obtained by the Ombudsman during his investigation tends to support that the social worker received information firsthand re possible sexual abuse, there is no clear evidence to indicate how much, if any, of this information was actually communicated to his supervisor. While some communication regarding the case did take place between the social worker and the supervisor, there was no evidence to indicate that information re possible sexual abuse was passed on. I do not understand why discussion of the case between the social worker and his supervisor would not include the information concerning the possible sexual abuse. However, as both the social worker and the supervisor denied discussing any matter relating to sexual abuse, and as there is no evidence to the contrary, I cannot conclude

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that the supervisor had sufficient information to initiate a formal investigation of possible sexual abuse.

2. The Children's Aid Society of Eastern Manitoba, through its Social Worker, erred in judgement by not formally reporting and pursuing the question of possible child abuse on the strength of the information presented by one of the children in March, 1981.

With this finding, the same point is to be made regarding the supervisor as stated with finding number one. Because there is no evidence to conclude that the supervisor was aware of the information, one cannot conclude that the supervisor erred in judgement.

3. That the note taking and recording procedures utilized by the Social Worker were inadequate.

While the Ombudsman recognizes that note keeping and recording procedures may vary from social worker to social worker and agency to agency, depending upon many factors such as the personal preferences and style of a social worker, the time available for recording, the nature of cases being dealt with, the size of the caseload, the policy of the agency, and so forth--nonetheless, the Ombudsman feels that proper note keeping and recording should enable, at any time, documented retrieval of important information in a manner that leaves very little to recollection and guesswork.

In reviewing the file recordings and social worker's notes on this case, there was a noticeable lack of information on what appeared to the Ombudsman to be rather important interviews and events in the lives of the children. The material in summary file reports was drawn from the caseworker's handwritten notes, which were scant, and more often from information stored in the worker's head.

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The Ombudsman recognizes that in this case the social worker's method of taking notes, sorting information, and file recording may have come about partially because of a heavy and demanding caseload. While the pressures of time and a heavy caseload might be responsible in part for this method of recording, I maintain that the child welfare field is too important an area of work to entertain such methods of record keeping. Perhaps very serious consideration must be given, by agencies and funding sources, to enabling social workers to have manageable caseloads.

FINDINGS RE THE LEGAL AND PROFESSIONAL PRACTICES OF CHILD ABUSE REPORTING IN GENERAL

1. Some confusion could arise between the "Guidelines in Cases of Child Abuse" on the one hand and The Child Welfare Act and Regulation on the other hand, thereby producing the potential for inconsistency in approach to child abuse matters.

2. That over the past decade, there has been an evolution of philosophy and practice with regard to child abuse and, particularly, sexual abuse. The information now available needs to be sorted out, balanced and consolidated, to arrive at a clearly defined philosophy and policy which will form the basis for a consistent approach to the problem of child abuse.

In arriving at finding number two, the Ombudsman, in his report, spent a little time discussing the evolution of philosophy and practice with regard to child abuse matters because, undoubtedly, as people become more comfortable with reporting child abuse, there will be more and more cases of sexual abuse brought to light, many of which will relate to years

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gone by, and some of which may allege (as in the particular case reviewed) inaction, insufficient action, errors in judgement and so forth, on the part of social workers and agencies. I would caution that, when such allegations are brought forward, one not be too quick to judge and condemn, keeping in mind that we are now looking at child abuse and sexual abuse through somewhat enlightened eyes and a heightened sensitivity and awareness of such matters. When we comment now on actions, errors or omissions that took place in the past, we should try to do so not particularly in light of our expectations of today, but against the background of the philosophies, attitudes, expectations, guidelines and legislation applicable at the time of the incidents involved.

3. <u>That while there may be good co-operation among the child caring agencies, the local Police, and the medical profession, there still remains room for improvement re the sharing and co-ordination of information among agencies and personnel involved with potential child abuse families and situations.</u>

While one wants to be careful not to conjure up George Orwell's spectre of Big Brother watching over us, it may be necessary, when thinking of preventative measures with respect to child abuse, to consider a centralized and perhaps computerized co-ordinated source of information to which any agency or professional could turn for an instant profile on a family in respect to the care of children in their charge. This could perhaps be done through the Child Abuse Registry under the Director of Child Welfare. If, for example, a doctor treating a child for an injury had some concerns

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about how the injury took place, he/she could feed appropriate information into the computer and then perhaps learn that the child's brother or sister had, at one time, been referred to a child caring agency because of attending school with bruises. Such information would prompt interdisciplinary communication which perhaps would not otherwise take place. Although some may argue that such measures would invade the right of an individual to privacy, I would strongly suggest that the right of children to be free from abuse far outweighs any right to privacy than any individual may claim.

4. That there is probably a need to provide intensive training to social workers, and other professionals who come into contact with children, regarding child abuse in general, but particularly regarding sexual abuse of children.

With the ever-increasing body of knowledge and the number of cases coming to light concerning sexual abuse, the Ombudsman feels that all people having professional contact with children would benefit from training which would elaborate upon what constitutes sexual abuse, what are the signs of a sexually abused child, what to do in instances of alleged sexual abuse, what the law says about sexual abuse, agency and individual responsibility, and so forth.

Conclusion and Recommendations

This report has just scratched the surface of a very complex and critically important subject. While it is recognized that many progressive steps are being taken by people of good will throughout the Province of Manitoba to confront and curb child abuse, at the same time it is recognized

that much, much more has to be done to ensure that our citizens, children and adults alike, do not become victims of sexual abuse or any form of child abuse. The suffering resulting from child abuse is not restricted to the children experiencing the abuse, but indeed is felt by all who have any relationship or connection with these children. The wounds do not heal easily and often leave scars that carry on from generation to generation. If even one child in our society suffers from this phenomenon then all society will experience this child's pain, and indeed we must all bear some measure of responsibility to right this wrong.

As a result of my review of this particular child abuse case and my consideration of child abuse in general, I am respectfully submitting the following recommendations for consideration. I am making no specific recommendation regarding the particular child abuse case investigated as I feel my comments and findings speak for themselves. However, some recommendations do come to mind as a result of my review of the legal and professional practices of child abuse reporting in general.

1. Whereas it is proposed that new legislation, namely a Child and Family Services Act, may soon replace the current Child Welfare Act, it is respectfully recommended that immediately such legislation is passed, appropriate regulations and a policy statement re child abuse be devised consistent with the legislation.
2. It is respectfully recommended that the current legislation, namely <u>The Child Welfare Act</u>, Manitoba Regulation 160/79, and the provincial protocol entitled "Guidelines in Cases

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of Child Abuse", be examined and any areas of inconsistency or confusion be clarified. It is particularly important that the question of when, and under what circumstances a child caring agency reports to the Police, be clarified. In order to ensure consistency in approach throughout the Province on this matter, it is respectfully recommended that a clear, unequivocal policy, consistent with the legislation, be established by the Director of Child Welfare and communicated to all child caring agencies in the Province.

3. Whereas there is a need for agencies to quickly assess information that other agencies may have on file, as the sharing of appropriate and relevant information is an invaluable preventative measure, it is respectfully recommended that the Registry of Child Abuse be equipped to provide the service of co-ordinating the confidential exchange of meaningful information.

4. In order to check for consistency of approach throughout the Province, it is respectfully recommended that all child caring agencies be requested to review their current policy on the reporting and handling of child abuse cases and submit the same in writing to the Director of Child Welfare. The Director can then check to make sure the policies utilized by agencies are consistent throughout the Province and are consistent with the legislation and guidelines.

5. It is respectfully recommended that a comprehensive course or training module on child abuse, and particularly sexual abuse, be devised and made a mandatory part of inservice

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training for all social workers, and other professionals who, in the course of their duties, deal with children.

I sincerely hope that the comments, opinions, and recommendations contained in this report will be viewed in a positive light, and accepted in the spirit in which they were presented, namely in the best interest of the children of this Province. If the contents of this report serve to stimulate further discussion and an honest look at the problem, then it will have served a useful purpose. I would hope, however, that preventative measures may flow from our consideration of this topic, and that people of good will will join hands and work together to make this Province a safe place for all children.

Final Comment

Following completion of his report, the Ombudsman learned that the Guidelines in Cases of Child Abuse (of which the Ombudsman has been somewhat critical in his report) have been reviewed by a special task force and new guidelines are proposed and will hopefully soon be in effect. The Ombudsman has reviewed these new guidelines and feels they are a very positive step and may well alleviate the concerns expressed in his report about the current guidelines. The government has also moved in the direction of defining a statement of philosophy and process for handling child sexual abuse cases. As well, the Ombudsman has reviewed the draft of proposed legislation (The Child and Family Services Act) drawn up by the committee reviewing The Child Welfare Act. It is the Ombudsman's opinion that the proposed legislation, if enacted, will provide an improved framework for dealing with cases of child abuse.

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The positive steps being taken by government, agencies, social workers, and others to help protect the rights of our children are to be commended, and the Ombudsman would respectfully urge the public at large to remain vigilant in this area, to become knowledgeable and to adopt a concerned yet positive and understanding approach to the question of child abuse.

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